

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

**JEANNETTE WEATHERSBY, as the
Administratrix of the Estate of JESSICA
S. WEATHERSBY, DECEASED,**

PLAINTIFF,

VS.

CIVIL ACTION NO. 4:04CV298-P-B

**GENERAL MOTORS CORPORATION;
BLACKWELL CHEVROLET CO.;
JOHN DOE CORPORATIONS 1-5; and
JOHN DOES 1-10;**

DEFENDANTS.

FINAL JUDGMENT

This matter comes before the court upon Defendant General Motors Corporation's Motion to Dismiss for Failure to Comply with April 22, 2008 Order [86]. After due consideration of the motion, the court finds as follows, to-wit:

On April 22, 2008 the court entered an Order granting GM's motion to compel vehicle inspection wherein the U.S. Magistrate Judge ordered the plaintiff to make the subject vehicle available for inspection on June 10, 2008 or June 12, 2008 and to notify GM counsel within five days of the date of the Order which of those dates would be appropriate. The court warned: "*Plaintiff's failure to fully comply with this order shall subject Plaintiff to the full panoply of Rule 37 sanctions, including the ultimate sanction of dismissal.*" (emphasis in original).

In the instant motion, filed on May 12, 2008, GM avers that plaintiff counsel never contacted them regarding a time to make the subject vehicle available for inspection. The deadline by which the plaintiff must have responded to the instant motion passed on May 30, 2008. Plaintiff counsel has not contacted the court for an extension of time.

Uniform Local Rule 7.2(c)(3) requires a party to notify the court if it intends not to respond to a motion. Uniform Local Rule 7.2(c)(2) allows the court to grant a motion to which no response was filed. Furthermore, Fed. R. Civ. P. 37(b)(2)(A)(v) provides: "If a party ... fails to obey an order to provide or permit discovery ... the court where the action is pending may issue further just orders. They may include the following: ... dismissing the action or proceeding in whole or in part."

The court concludes that plaintiff counsel has disobeyed an order of this court without explanation. Because the plaintiff counsel has done so and has not attempted to provide an explanation to the court, the court concludes that this action should be dismissed with prejudice.

IT IS THEREFORE ORDERED AND ADJUDGED that:

- (1) Defendant General Motors Corporation's Motion to Dismiss for Failure to Comply with April 22, 2008 Order [86] is **GRANTED**; therefore,
- (2) All of the plaintiff's claims are **DISMISSED WITH PREJUDICE**; and
- (3) This case is **CLOSED**.

SO ORDERED this the 13th day of June, A.D., 2008.

/s/ W. Allen Pepper, Jr.

W. ALLEN PEPPER, JR.

UNITED STATES DISTRICT JUDGE